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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,945	12/31/1999	PATRICK H. POTEGA	1092-106.US	7098

7590

02/21/2003

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EXAMINER
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CABRERA, ZOILA E

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/475,945

Applicant(s)

POTEGA, PATRICK H.

Examiner

Zoila E. Cabrera

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) 1-51 and 53-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 52 and 78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-78 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Newly submitted independent claims 21, 34, 39, 53, 63 and 69 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 21 and 53 are directed to *determining an anticipated fully charged or nearly discharged battery* wherein a look-up table comprising a substantial matrix of battery design parameters expressed as voltage values of a multiplicity of batteries arranged by both chemistry type and typical cells-per-park configurations is used. Claims 34 and 63 are directed to *determining the chemistry-type of a battery* wherein a LIST function and SORT function is used. Claims 39 and 69 are directed to *an apparatus and method for employing electrical load values in determining various machine states of a user-interactive apparatus for delivering power to a battery-powered device* wherein a first, second and up to seventeenth machine states are disclosed.

Since applicant elected claims readable on the elected invention of Group III, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-51, 53-77 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. The following are rules § 821, 821.03 as stated in the MPEP:

#### **§ 821 Treatment of Claims Held To Be Drawn to Nonelected Inventions**

Claims held to be drawn to nonelected inventions, including claims to nonelected species, are treated as indicated in MPEP § 821.01 through § 821.03.

The propriety of a requirement to restrict, if traversed, is reviewable by petition under 37 CFR 1.144. In re Hengehold, 440 F.2d 1395, 169 USPQ 473 (CCPA 1971).

**All claims that the examiner holds as not being directed to the elected subject matter are withdrawn from further consideration by the examiner in accordance with 37 CFR 1.142(b).** See MPEP § 809.02(c) and § 821.01 through § 821.03. The examiner should clearly set forth in the Office action the reasons why the claims withdrawn from consideration are not readable on the elected invention. Applicant may traverse the requirement pursuant to 37 CFR 1.143. If a final requirement for restriction is made by the examiner, applicant may file a petition under 37 CFR 1.144 for review of the restriction requirement.

#### **821.03 Claims for Different Invention Added After an Office Action**

Claims added by amendment following action by the examiner, MPEP § 818.01, § 818.02(a), to an invention other than previously claimed, should be treated as indicated by 37 CFR 1.145.

#### **37 CFR 1.145. Subsequent presentation of claims for different invention.**

If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.144.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 52 and 78 are rejected under 35 U.S.C. 102(b) as being anticipated by **Krall (US 5,621,299)**.

**Krall** discloses a method and a computer readable medium for supplying power to a powered device which is adapted to receive power selectably from a battery and a configurable power supply, comprising:

preloading said battery with a resistive load (Fig. 1, element 23);

varying said resistive load on said battery (Fig. 1, elements 43, 23; Col. 6, lines 18-22);

detecting the extent of voltage sag upon preloading said battery (Col. 6, lines 56-62; Col. 6, lines 18-22);

analyzing said detected voltage sag and determining the anticipated fully charged battery voltage (Col. 7, lines 22-26, i.e., the maximum sustainable current capacity of the batteries themselves);

supplying the appropriate voltage to the powered device from said configurable power supply, instead of from said battery (Col. 7, lines 40-52).

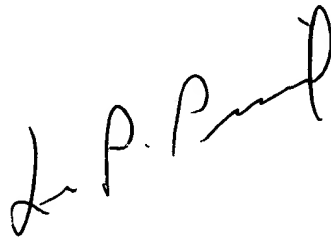
**Conclusion**

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning communication or earlier communication from the examiner should be directed to Zoila Cabrera, whose telephone number is (703) 306-4768. The examiner can normally be reached on M-F from 8:00 a.m. to 5:30 p.m. EST (every other Friday).

If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached on (703) 308-0538. Additionally, the fax phones for Art Unit 2125 are (703) 308-6306 or 308-6296. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 305-9600.

Zoila Cabrera  
Patent Examiner  
2/14/03

A handwritten signature in black ink, appearing to read "L. Picard", written in a cursive style.

**LEO PICARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100**